

**HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
WRIT PETITION No.2637 of 2007**

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Between:

M/s Santhi Sikhara Apartments
Welfare Association, Somajiguda,
Hyderabad

... Petitioner

And

Municipal Corporation of Hyderabad,
Rep. by its Commissioner & another

... Respondents

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:: O R D E R ::

Counsel for the petitioner : Shri A. Tulsi Raj Gokul

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February 13, 2007

Per G.S. Singhvi, CJ

In this petition, the petitioner has prayed for issue of a mandamus to the respondents to demolish the constructions made in the stilts within Santhi Sikhara Apartments in furtherance of notice dated 25.05.2006 issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act').

We have heard Shri A. Tulsi Raj Gokul, learned counsel for the petitioner and perused the record. In our opinion, the writ petition is liable to be dismissed because,

- 1) the petitioner has not disclosed the year when it was registered and who are its members;
- 2) the petitioner has neither placed before the Court its constitution or bye-laws under which a writ petition could be

filed on its behalf for demolition of the so-called illegal constructions;

- 3) the resolution passed by the competent body of the association authorising Shri B. Venkat Reddy to file the writ petition has not been placed on records, and
- 4) neither the builder nor the persons who are occupying the so-called illegal construction made in the stilts of Shanthi Shikhara Apartments have been impleaded as parties to the writ petition. This is despite the fact that the person who has filed affidavit in support of the writ petition knows the identity of those persons as also their addresses. In our considered view, the Court cannot direct demolition of the disputed construction without hearing the builder and those who are occupying the building.

Hence, the writ petition is dismissed. However, liberty is given to the petitioner to file fresh petition on the same cause by impleading the builder and the occupants of the so-called illegal construction made in the building.

As a sequel to dismissal of the writ petition, WPMP No.3386 of 2007 filed by the petitioner for interim direction is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

February 13, 2007
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